

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

DONALD BRIDGEWATER,)	
)	
Plaintiff,)	Case No. 4:20-cv-00723
v.)	
)	
WALMART STORES EAST I, LP,)	
)	
and)	
)	
JOSH WILLIAMS)	
)	
Defendant.)	

DEFENDANT JOSH WILLIAMS' NOTICE OF REMOVAL

Defendant Josh Williams (“Defendant” or “Williams”) with full reservation of all defenses, objections, and exceptions, including but not limited to service, jurisdiction, venue, and statute of limitations, removes the above-captioned matter from the Circuit Court of Jackson County, Missouri at Independence, to the United States District Court for the Western District of Missouri, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support thereof, Williams states the following:

THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

1. Plaintiff Donald Bridgewater (“Plaintiff”) filed this lawsuit against Defendants Josh Williams and Walmart Stores East I, LP (“Walmart”) in the Circuit Court of Jackson County, Missouri on or about July 28, 2020.
2. Williams was served with process on August 10, 2020. Williams has not yet answered Plaintiff’s First Amended Petition for Damages.
3. Walmart was served with process on August 26, 2020. Walmart has not yet answered Plaintiff’s has not been served with process.
4. As required by 28 U.S.C. § 1446(a), a complete copy of all records and proceedings

from the Circuit Court of Jackson County, Missouri at Independence, are attached as Exhibit A.

5. This Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. § 1446(a) as it is the United States District Court embracing the Circuit Court of Jackson County, Missouri, where Plaintiff's First Amended Petition is currently pending. *See* 28 U.S.C. § 96.

6. Without waiving any objection to service, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), because the same has been filed within thirty (30) days of service on Defendant.

7. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Defendant Walmart has consented to the removal of this action.

8. Pursuant to 28 U.S.C. § 1446(d), Williams files written notice of this removal with the Clerk of the Circuit Court of Jackson County, Missouri at Independence, where Plaintiff's Petition is currently pending. A copy of this Notice of Removal and the written notice of the same have been served upon Plaintiff.

COMPLETE DIVERSITY OF CITIZENSHIP EXISTS

9. Upon information and belief, Plaintiff is a citizen of the State of Missouri.

10. Defendant Williams is, and at all times relevant herein was, a citizen of the State of Missouri.

11. Walmart Stores East I, LP is the name under which Walmart Stores East, LP, transacts business in Missouri, but Walmart Stores East I LP is not a legal entity. The legal entity, Walmart Stores East, LP, is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. The sole member of WSE Management, LLC and WSE Investment, LLC is Walmart Stores East, LLC, an Arkansas limited liability company. The sole member of Walmart Stores East, LLC, is Walmart, Inc., a Delaware

Corporation. The principal place of business for all legal entities and members mentioned is Bentonville, Arkansas. Accordingly, Walmart Stores East LP is a citizen of Delaware and Arkansas for the purposes of determining this Court's subject matter jurisdiction. *See* 28 U.S.C. § 1332(c).

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

12. Where a plaintiff has not specified a specific amount of damages in his state court petition, the removing party “must prove by a preponderance of the evidence that the amount in controversy exceeds \$75,000.” *Miller v. CEVA Logistics*, 2008 U.S. Dist. LEXIS 2116, *2 (W.D. Mo. 2008) (quoting *In re Minnesota Mut. Life Ins. Co. Sales Practices Litig.*, 346 F.3d 830, 834 (8th Cir. 2003)). Plaintiff may only defeat removal by showing “to a legal certainty that recovery cannot exceed \$75,000.” *Miller*, 2008 U.S. Dist. LEXIS, at *3 (emphasis added).

13. To meet its burden of proof, a defendant seeking removal must present specific facts or evidence, which may include “an extensive list of serious and disabling injuries suffered by the plaintiff.” *Id.*

14. Plaintiff's First Amended Petition alleges in part that plaintiff, sustained “injury to his right thumb, right elbow, right ankle, and spine.” *See* Exhibit A, First Amended Petition. Plaintiff suffered and will permanently suffer “physical, mental and emotional pain, disability, anguish and suffering.” *Id.* at Paragraph 12. Plaintiff suffered and will permanently suffer “loss of enjoyment of life.” *Id.* Plaintiff has been required “to undergo multiple reasonable and necessary medical treatment.” *Id.* Plaintiff in the future will be required “to expend monies for medical treatment, care, and monitoring.” *Id.*

15. Upon information and belief, Plaintiff's alleged injuries place in dispute medical and other damages in excess of \$75,000, exclusive of costs and interest.

WHEREFORE, for the foregoing reasons, Defendant Williams removes this action from the Circuit Court of Jackson County, Missouri at Independence, to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,

BAKER STERCHI COWDEN & RICE LLC

/s/ James R. Jarrow

James R. Jarrow MO# 38686

Gregorio V. Silva MO# 71742

2400 Pershing Road, Suite 500

Kansas City, MO 64108

Telephone 816.471.2121

Facsimile 816.472.0288

Email: jarrow@bscr-law.com

gsilva@bscr-law.com

ATTORNEY FOR DEFENDANT
JOSH WILLIAMS

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of September, 2020 a copy of the foregoing was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send electronic notification of filing to all counsel of record, and U.S. Mail to:

Rick W. DeVault, Esq.
The Devalut Law Firm, LC
3720 N.E. Troon Dr., Ste 100
Lee's Summit, MO 64064
rick@devaultlaw.com
ATTORNEY FOR PLAINTIFF

/s/ James R. Jarrow